

REMARKS

In response to the final office action mailed August 10, 2004, Applicant respectfully requests reconsideration of the pending claims. Claims 1, 10-19, 24-30, 49, 56, 31-55, 59-62, 64 and 65 have been cancelled, and claims 31, 32, 38, 40, 41, 47, 48, 57, 59 and 66 have been amended. Independent claim 31 has been amended to incorporate dependent claim 56; independent claim 47 has been amended to incorporate dependent claim 65, claim 57 has been amended to incorporate independent base claim 31; and independent claim 59 has been amended to incorporate dependent claim 66. Furthermore, independent claims 31 and 47, and claim 57, have been amended to delete the limitation that the substrate comprises titanium, and the previously added limitation of "a height to width ratio of less than or equal to 2:1 when the height of the sample chamber is measured from one face of the substrate to the other." No new matter has been added.

35 U.S.C. §102

Claims 59 and 61 have been rejected under 35 U.S.C. §102 as being anticipated by U.S. Patent No. 6,071,702 (Yamamoto et al., hereinafter Yamamoto). Independent claim 59 has been amended to incorporate dependent claim 65, which was not rejected under Yamamoto. Accordingly, amended claim 59 is patentable over the cited art. Claim 61 depends on claim 59 and is allowable for the same reason as claim 59 and is further allowable in view of the additional limitations set forth therein.

35 U.S.C. §103(a)

Claims 31-55, 60, 62, 64 and 66 stand rejected under 35 U.S.C. §103(a) as being unpatentable over WO 99/34920 (Hunter) in view of U.S. 6,565,813 or WO 99/39829 (Garyantes) and Yamamoto.

Independent claim 31 has been amended to incorporate dependent claim 56, which was not rejected under the prior art. Accordingly, amended claim 31 is patentable over the cited art. Claims 32-46 and 55 depend on claim 31 and are allowable for the same reason as claim 31 and are further allowable in view of the additional limitations set forth therein.

Independent claim 47 has been amended to incorporate dependent claim 65 which was not rejected under the prior art. Accordingly, amended claim 47 is patentable over the cited art. Claims 48, 50-54 and 64 depend on claim 47 and are allowable for the same reason as claim 47 and are further allowable in view of the additional limitations set forth therein.

Claims 60 and 62 depend on claim 59, which were amended to incorporate dependent claim 65, which was not rejected under the cited art. Accordingly, claims 60 and 62 are patentable over the cited art.

Terminal Disclaimer

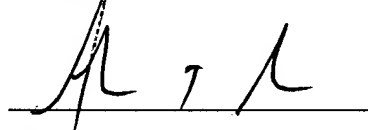
Applicant submits herewith a terminal disclaimer to put the above-identified application in condition for allowance. Claim 63 was provisionally rejected under the judicially created doctrine of double patenting over claim 18 of copending Patent Application No. 09/789,601; and claims 56 (incorporated into claim 31), 57, 58 and 65 (incorporated into claim 59) were provisionally rejected under the judicially created doctrine of double patenting over claims 15, 16, 18-28, 30-42 and 44-47 of copending Patent Application No. 09/789,601 in view of Garyantes (U.S. Patent No. 6,565,813 or WO 99/39829) and Yamamoto et al. (U.S. Patent No. 6,071,702). The assignee for the present application and copending Patent Application No. 09/789,601 is the same entity, Biotrove, Inc.. Applicant makes no comment as to the propriety of the rejection, but submits herewith a terminal disclaimer to expedite prosecution.

For the reasons set forth above, it is submitted that all pending claims are in condition for allowance. Reconsideration of the claims and a notice of

allowance are therefore requested. It is believed that a one month extension of time is required for this matter. Applicant hereby petitions for same and requests that any extension or other fee required for timely consideration of this application be charged to Deposit Account No. 19-4972.

If the Examiner has any questions as to the allowability of the currently pending claims or if there are any defects which need to be corrected, the Examiner is invited to speak to the Applicants' counsel at the telephone number given below.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'A. J. Smolenski, Jr.', is written over a horizontal line.

Alexander J. Smolenski, Jr.
Registration No. 47,953

BROMBERG & SUNSTEIN LLP
125 Summer Street
Boston, MA 02110-1618
Tel: 617 443-9292
Fax: 617 443-0004

02119/00134 350686.1